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7 **UNITED STATES DISTRICT COURT**
8 **FOR THE WESTERN DISTRICT OF WASHINGTON**

9
10 EBONY HANEY,

11 Plaintiff,

12 v.

13 T-MOBILE USA, INC., JOHN DOES, JANE
14 DOES, and X, Y, Z CORPORATIONS; and
15 DOES 1 to 10, inclusive,

16 Defendants.
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Case No.

**COMPLAINT FOR VIOLATIONS OF
THE TELEPHONE CONSUMER
PROTECTION ACT ("TCPA") &
INVASION OF PRIVACY**

JURY TRIAL DEMANDED

19 **COMPLAINT AND DEMAND FOR JURY TRIAL**

20 **INTRODUCTION**

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22 1. This is an action for actual and statutory damages brought by Plaintiff, EBONY
23 HANEY, an individual consumer, against Defendant, T-MOBILE USA, INC., for violations of
24 the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. (hereinafter "TCPA"), and also
25 out of the invasions of Plaintiff's personal privacy by Defendant and its agents in their illegal
26 efforts to collect an alleged consumer debt from Plaintiff.
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COMPLAINT - 1
(Case No. _____)

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JURISDICTION

2. Jurisdiction of this court arises under 47 U.S.C. § 227 et seq. and 28 U.S.C. § 1331, 1337. Venue in this District is proper because Defendant resides and transacts business here. Further, the conduct complained of occurred here.

PARTIES

3. Plaintiff, Ebony Haney, is a consumer, a natural person allegedly obligated to pay any debt, residing in Westchester County, New York.

4. Defendant, T-Mobile USA, Inc. is a company engaged in the business of collecting debt in this state with its principal place of business located in King County at 12920 SE 38th Street Bellevue, Washington 98006.

5. Defendant is engaged in the collection of debts from consumers using the mail and telephone. Defendant regularly attempts to collect consumer debts alleged to be due.

FACTUAL ALLEGATIONS

6. Upon information and belief, within one year prior to the filing of this Complaint, Defendant placed collection calls to Plaintiff, seeking and demanding payment for an alleged consumer debt owed under an account number.

7. The debt that Defendant is attempting to collect on is an alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

8. Upon information and belief, Defendant began contacting Plaintiff and placing collection calls to Plaintiff prior to March 20th of 2012; seeking and demanding payment for an alleged consumer debt.

9. Upon information and belief, within one year prior to the filing of this Complaint, Defendant called Plaintiff using an automatic telephone dialing system as defined under 47 U.S.C. § 227 (a)(1)(A) and (B) on numerous occasions.

10. Defendant made the aforementioned calls without Plaintiff's consent, after Plaintiff already told Defendant not to call her

11. Defendant had reason to know the aforementioned calls inconvenienced Plaintiff and that Defendant had other means by which to contact Plaintiff.

12. As a result of the acts alleged above, Plaintiff suffered emotional distress resulting in her feeling stressed, amongst other negative emotions.

CLAIM FOR RELIEF

13. Plaintiff repeats, realleges, and incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

14. The foregoing acts and omissions of Defendant and its agents constitute numerous and multiple violations of the TCPA including, but not limited to, the provisions of the TCPA, 47 U.S.C. § 227 et seq., cited below, with respect to Plaintiff:

(a) Defendant violated TCPA § 227b(1)(A)(iii) by calling Plaintiff using an automatic telephone dialing system or an artificial or prerecorded voice to Plaintiff's cellular telephone service, without her express consent.

15. As a result of the foregoing violations of the TCPA, Defendant is liable to Plaintiff, Ebony Haney, for actual damages pursuant to 47 U.S.C. § 227, statutory damages in an amount up to \$500.00 for each violation of the TCPA pursuant to 47 U.S.C. § 227, treble damages pursuant to 47 U.S.C. § 227, and reasonable costs and attorney fees pursuant to 47 U.S.C. § 227, from each Defendant herein.

INVASION OF PRIVACY BY INTRUSION UPON SECLUSION

16. Plaintiff repeats, realleges, and incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

17. Congress explicitly recognized a consumer's inherent right to privacy in collection matters in passing the Telephone Consumer Protection Act, when it stated as part of its findings:

In implementing the requirements of this subsection, the Commission may, by rule or order, exempt from the requirements of paragraph (1)(B) of this subsection, subject to such conditions as the Commission may prescribe such classes or categories of calls made for commercial purposes as the Commission determines **will not adversely affect the privacy rights that this section is intended to protect[.]**

47 U.S.C. § 227(2)(B)(ii)(I) (emphasis added).

18. Congress further recognized a consumer's right to privacy in financial data in passing the Gramm Leech Bliley Act, which regulates the privacy of consumer financial data for a broad range of "financial institutions" including companies that try to collect on debts owed to them, albeit without a private right of action, when it stated as part of its purposes:

It is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers' nonpublic personal information.

15 U.S.C. § 6801(a) (emphasis added).

19. Defendant and/or its agents intentionally and/or negligently interfered, physically or otherwise, with the solitude, seclusion and/or private concerns or affairs of Plaintiff, namely, by repeatedly and unlawfully attempting to collect a debt and thereby invaded Plaintiff's privacy.

20. Defendant also intentionally and/or negligently interfered, physically or otherwise, with the solitude, seclusion and/or private concerns or affairs of Plaintiff, namely, by repeatedly and unlawfully contacting her cell phone using an automatic telephone dialing system, after she had already told Defendant not to call her, and thereby invaded Plaintiff's right to privacy.

21. Defendant and/or its agents intentionally and/or negligently caused emotional harm to Plaintiff by engaging in highly offensive conduct in the course of collecting this debt, thereby invading and intruding upon Plaintiff's right to privacy.

22. Plaintiff had a reasonable expectation of privacy in her solitude, seclusion, private concerns and affairs.

23. The conduct of Defendant and/or its agents, in engaging in the above-described illegal collection conduct against Plaintiff, resulted in multiple intrusions and invasions of privacy which occurred in a way that would be highly offensive to a reasonable person in Plaintiff's position.

24. Defendant's acts as described above were done intentionally with the purpose of coercing Plaintiff to pay the alleged debt.

25. As a result of such intrusions and invasions of privacy, Defendant and/or its agents are liable to Plaintiff for actual damages in an amount to be determined at trial from each and every Defendant.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendant, T-MOBILE USA, INC., for the following:

A. Actual damages from each Defendant pursuant to 47 U.S.C. 227 for the emotional distress suffered as a result of the intentional and/or negligent TCPA violations, and from each Defendant for intentional and/or negligent invasions of privacy in an amount to be determined at trial and for Plaintiff;

B. Statutory damages pursuant to 47 U.S.C. § 227; and

1 C. For such other and further relief as the Court may deem just and proper.

2 *DEMAND FOR JURY TRIAL*

3 Please take notice that Plaintiff, EBONY HANEY, demands trial by jury in this action.

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5 Respectfully submitted this 22nd day of June, 2012.

6 **MEYLER LEGAL, PLLC**

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